



**Request for City Council Committee Action
From the Department of**

Date: April 25, 2002
To: Honorable Barbara Johnson
Referral to: Ways & Means Budget Committee
Subject: Cable Franchise Television Renewal
Prepared or Submitted by: Karl Kaiser, Chief Information Officer

Approved by: John Moir
John Moir
City Coordinator

Presenters in Committee: Edie French, Director, ITS Telecommunications and
Media Services Division (Cable Officer) 673-2911

Recommendation

That your committee authorize and direct City Cable Officer and the City Attorney to proceed with franchise renewal process as governed by applicable laws pursuant to attached recommendations.

Previous Directives

None

Financial Impact (Check those that apply)

☒ No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

- ☐ Action requires an appropriation increase to the Capital Budget
- ☐ Action requires an appropriation increase to the Operating Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☐ Other financial impact (Explain):

☐ Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact (use any categories that apply)

Neighborhood Notification

City Goals

Comprehensive Plan

Zoning Code

Other

Background/Supporting Information Attached

The current Minneapolis Cable Communications Franchise, which is held by KBL Cablesystems of Minneapolis, L.P. d/b/a Time Warner Cable, will expire on November 14, 2004, unless it is extended or terminated at an earlier time. We are now within the "window" during which either the City of Minneapolis (the "City") or Time Warner Cable may invoke the "formal" renewal process set forth in Section 626(a)-(g) of the federal Cable Communications Policy Act of 1984, as amended, 47 U.S.C. § 546(a)-(g) (the "Cable Act").

Under Section 626(a)(1) of the Cable Act, the City must commence a proceeding to (i) identify the community's future cable-related needs and interests and (ii) evaluate Time Warner Cable's performance under the Minneapolis Cable Communications Franchise, if Time Warner Cable requests such a proceeding within a statutorily defined window (36-30 months prior to franchise expiration) and invokes its formal franchise renewal rights, which are set forth in the Cable Act. By letter dated February 20, 2002, Time Warner Cable has timely invoked its formal renewal rights and requested that the City commence a needs ascertainment and past performance proceeding. This proceeding must afford the public notice and an opportunity to participate, and must be initiated within six (6) months of the date that Time Warner Cable's letter was submitted to the City. The City and Time Warner Cable may, by agreement, toll the deadline for commencing the needs ascertainment and past performance proceeding.

Concurrent with the federal formal renewal process, or during any time that the formal renewal process is tolled, the City and Time Warner Cable may follow the informal renewal process set forth in Section 626(h) of the Cable Act, 47 U.S.C. § 546(h). Under the informal renewal process, Time Warner Cable may submit a franchise renewal proposal at any time and the City may, after affording the public adequate notice and an opportunity for comment, grant or deny such a proposal for any reason. In addition, the City may request a franchise renewal proposal from Time Warner Cable at any time, and accept or reject such a proposal for any reason, after providing the public with adequate notice and an opportunity to comment. After an informal renewal proposal is received, the parties typically enter into negotiations, and agreed upon terms are included in a franchise ordinance and/or amendment.

As part of the informal renewal process, the City may perform a needs ascertainment, to identify the community's cable-related needs and interests, and evaluate Time Warner Cable's financial capabilities and past performance under the Minneapolis Cable Communications Franchise. Additionally, the City may need to follow certain procedural steps and standards set forth in the Minneapolis Cable Communications Franchise.

Recommendations

In order to (i) preserve and protect the City's interests, (ii) comply with applicable law and (iii) ensure that the franchise renewal process proceeds in a timely and expeditious manner, I recommend and request that the Ways and Means Committee authorize and direct the City Cable Officer and the City Attorney to:

1. Prepare and enter into a Standstill Agreement, pursuant to which the formal renewal procedures and requirements set forth in federal law will be tolled, so that the City and Time Warner Cable may engage in informal renewal negotiations; and
2. Conduct proceedings in accordance with Section 626(a) of the Cable Act, 47 U.S.C. § 546(a), as necessary; and
3. Ascertain the community's present and future cable-related needs and interests, using focus groups, surveys and other assessment tools, as needed or desired; and
4. Prepare any reports, findings, recommendations, letters, documents and notices that the Cable Officer and/or the City Attorney believe are needed or desirable to carry out the informal or formal renewal process; and
5. Evaluate Time Warner Cable's performance, and that of its predecessors in interest, under the Minneapolis Cable Communications Franchise, to the extent permitted by law; and
6. Perform those evaluations and public hearings specified in Ch. 1, Art. V, § 1 of the Minneapolis Cable Communications Franchise, unless the City and Time Warner Cable agree otherwise or unless such evaluations and public hearings are preempted by applicable law; and
7. Report periodically to the City Council on the status of informal or formal renewal discussions; and
8. Take such other steps as are required, needed or desired to carry out the informal or formal renewal process.